IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 6908 of 2001

Between:

Federation of Cine Exhibitors, Andhra Pradesh, Rep. by its Secretary, Sri D.Hanumantha Rao, 1-1-151, S.P.Road, Secunderabad.

..... PETITIONER

AND

1 Films Division, Ministry of Information and Broadcasting, Government of India, Rep. by its Branch Manager, Sultan Bazar, Hyderabad.
2 The Branch Manager, Films Division, Gandhinagar, Vijayawada, Krishna District.
3 Government of Andhra Pradesh, Rep. by its Principal Secretary, Home Department, Secretariat Buildings, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondents 1 & 2 herein in calling for statement of accounts from 1.7.1994 onwards from the exhibitors for the purpose of fixing the rentals for exhibition of approved short films vide their Notice dt:25.8.1999, as illegal, null, void and arbitrary.

Counsel for the Petitioner: MR.K.DURGA PRASAD

Counsel for the Respondents: MR.V.RAVINDER

The Court made the following :

ORDER:

This writ petition is filed by the Federation of Cine Exhibitors of Andhra Pradesh, represented by its Secretary G.Hanumantha Rao, with a prayer to issue an appropriate writ, order or direction one in the nature of writ of Mandamus declaring the action of respondents 1 and 2 herein in calling for statement of accounts from 1.07.1994 onwards from the exhibitors for the purpose of fixing the rentals for exhibition of approved short films vide their Notice dated 25.08.1999, as illegal, null, void and arbitrary.

The petitioner-Federation is registered under the A.P.(Telangana Area) Public Societies Registration Act (Act No.1/1350F). All the Cine Exhibitors of the State of Andhra Pradesh are the members of the Federation. The petitioner-Federation questioned the action of the respondents in demanding the amounts from the exhibitors for the period from 04.11.1995 to 15.07.1999 towards the rentals of the Indian News Review.

Learned counsel for the petitioner-Federation as well as the learned counsel for respondents 1 and 2 submit that the issue involved in this writ petition is squarely covered by the judgment of this Court in W.A.No.298 of 2001 and batch. It has been held by the Division Bench of this Court in the W.A. as follows:

> "An agreement can be express or implied. If short films have been supplied to the appellants they would irrespective of the legal position be liable to pay the amount in question to the Films Division. Even if the conditions of the licence as contended by the appellants were found to be invalid, they would still be liable in terms of Sections 65 and 70 of the Indian Contract Act. In fact, on their own showing the appellants had also been paying the said amount after the decision of the Supreme Court. We, therefore, are of the opinion that the liability of the appellants has to be determined on resolution of the dispute as to whether short films had been supplied to them or not. Such dispute has to be determined in an appropriate forum and not in a writ proceeding . It is needless to say that the State cannot refuse to renew the cinematograph licences of the appellants unless conditions

precedent therefore are not satisfied."

It is explicit from the above referred judgment that the dispute between the members of the Federation on the one hand and respondents on the other, cannot be determined in the writ proceedings. The liability of the members of the petitioner-Federation has to be determined on resolution of dispute as to whether the short films had been supplied to them or not.

Therefore, the impugned notice dated 25.08.1999 cannot sustained and it is hereby declared as null and void . Accordingly, the writ petition is allowed. There shall be no order as to costs.

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16.06.2005

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To

1 The Branch Manager, Films Division, Ministry of Information and

Broadcasting, Government of India, Sultan Bazar,
Hyderabad.

2 The Branch Manager, Films Division,
Gandhinagar, Vijayawada,
Krishna District.

3 The Principal Secretary, Government of Andha Pradesh, Home Department,

Secretariat Buildings,
Hyderabad.